

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

3:07-cr-62

UNITED STATES OF AMERICA

vs.

JOHN ROBINSON (2)

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ORDER

**THIS MATTER** is before the Court upon motions of the defendant pro se for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine. (Doc. Nos. 56, 58).

The offense level for the defendant's case was determined pursuant to the career offender guideline. (Doc. No. 45: Statement of Reasons (SOR) at 1; Presentence Report (PSR) at ¶ 23). The career offender guideline sets the offense level in relation to the maximum statutory penalty, USSG §4B1.1(b), and was not affected by the amendments. USSG Supp. to Appx. C., Amend. 706 (2007) and 759 (2011); United States v. Munn, 595 F.3d 183, 187 (4th Cir. 2010); see also Neal v. United States, 516 U.S. 284, 296 (1996) (retroactive amendment to guidelines does not alter statutory mandatory minimum). Accordingly, the defendant is not eligible for a sentence reduction. USSG §1B1.10 comment. (n.1(A)(ii)) (defendant not eligible for reduction where another guideline provision prevents lowering of guideline range).

**IT IS, THEREFORE, ORDERED** that the defendant's motions (Doc. Nos. 56, 58) are **DENIED**.

The Clerk is directed to certify copies of this Order to the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: December 20, 2011

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
Chief United States District Judge

